

IN THE

Court of Appeal of the State of California

IN AND FOR THE

Fifth Appellate District

COURTROOM PROCEEDINGS

The court met in its courtroom at 10:00 A.M. Present: Honorable Nickolas J. Dibiaso, Acting Presiding Justice; Honorable Timothy S. Buckley, Associate Justice; Honorable Gene M. Gomes, Associate Justice; and Kay Frauenholtz, Clerk/Administrator, by Robert Abilez, Senior Deputy Clerk.

F043084 In re Manuel S., a Minor

Cause called and argued by Thea Greenhalgh, Esq., counsel for appellant. John G. McLean, Esq., Deputy Attorney General, counsel for respondent waived oral argument.

Cause ordered submitted.

At this point Dibiaso, Acting P.J., Buckley, J. and Gomes, J. leave the bench; they are replaced by Vartabedian, Acting P.J., Levy, J. and Cornell, J.

F043722 In re Nikolas N. et al., Minors

Cause called and argued by Donna B. Kaiser, Esq., counsel for appellant and by Jeanette Cauble, Esq., Deputy County Counsel, counsel for respondent and by Rissa A. Stuart, Esq., counsel for real party William N. King's Co. Minor's Advocate's Office, Esq., counsel for real party Daniel N. et al., waived oral argument.

Cause ordered submitted.

At this point Vartabedian, Acting P.J., Levy, J. and Cornell, J. leave the bench; they are replaced by Harris, Acting P.J., Gomes, J. and Dawson, J.

F041216 Berger v. Cullen

Cause called and argued by Mark Moore, Esq., counsel appearing specially for appellant. Paul Berger, respondent in propria persona waived oral argument.

Cause ordered submitted.

Court recessed until Tuesday, March 9, 2004 at 10:00 A.M.

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F041630 People v. Ashmore

The case is remanded to the trial court for a full evidentiary hearing on the motion for new trial. If, after an evidentiary hearing, the trial court concludes that Ashmore was prejudiced by the juror misconduct, the judgment shall be vacated and the new trial motion granted. Alternatively, if, after the trial court concludes the misconduct did not prejudice Ashmore, the judgment is affirmed. Cornell, J.

We concur: Vartabedian, Acting P.J.; Buckley, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F044937 May v. Clemons

Appellant having failed to perform the acts necessary to procure the record after the clerk of the trial court issued notice pursuant to the provisions of rule 8(a)(1), California Rules of Court, IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.

F043164 People v. Potman

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

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F043164 People v. Potman

The order recusing the Kern County District Attorney's Office is affirmed.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F041705 Truitt, Jr. v. The Superior Court of Merced County; Atwater Elementary School District, et al.

Let a writ of mandate issue commanding the trial court to vacate its order compelling the mental examination of petitioner and in its place to enter an order denying the District's motion to compel such examination. Truitt is awarded his costs on appeal. Dibiaso, Acting P.J.

We concur: Cornell, J.; Gomes, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F043009 Atwater Elementary School District v. California Office Of Administrative Hearings of Department Of General Services Of The State Of California; Truitt, Jr.

The judgment is reversed. Costs on appeal are awarded to appellant. Dibiaso, Acting P.J.

We concur: Cornell, J.; Gomes, J.

[CERTIFIED FOR PARTIAL PUBLICATION]

AMENDED 3/18/04